

Appendix A.I: Small Business Subcontracting Plan**Definitions**

Small Business: "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: This shall not exclude DMBE-certified women- and minority-owned businesses when they have received DMBE small business certification.

Women-Owned Business: Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

Minority-Owned Business: Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) by the due date of the solicitation to participate in the SBE program. Certification applications are available through DMBE online at www.dmbv.org (Customer Service).

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification.
- B. If you are not a DMBE-certified small business, complete Section B of this form. For the Offeror to receive credit for the small business subcontracting plan evaluation criteria, the Offeror shall identify the portions of the contract that will be subcontracted to DMBE-certified small business in this section. Points will be assigned based on each Offeror's proposed subcontracting expenditures with DMBE certified small businesses for the initial contract period as indicated in Section B in relation to the Offeror's total price.

Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a (check only one below):

- _____ Small Business
- _____ Small and Women-owned Business
- _____ Small and Minority-owned Business

Certification number: _____ Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

B. Plans for Utilization of DMBE-Certified Small Businesses for this Procurement

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract
Totals \$					

Appendix A.II: Service Level Methodology

This section describes the Service Level methodology that applies to the Service Levels against which Contractor's performance is measured. Unless otherwise noted in Section I, Sections II and III of this Schedule, methodology and service levels, respectively, are subject to Per Event Penalties.

I. DEFINITIONS.

"Allocation Percentage" means, for a particular Service Level, the portion of the At Risk Pool used to calculate the Performance Credit payable to DMAS in the event of a Service Level Failure with respect to that Service Level. The Allocation Percentage for any single Service Level will not exceed twenty-five percent (25%). The Allocation Percentage will be applied to no more than twenty (20) Service Levels per month.

"At Risk Amount" means, for any month and payment stream during the Term, ten percent (10%) of the monthly Fees.

"Per Event Penalties" means penalties for discrete Service Level Failures that shall not exceed the Per Event Penalty Pool for that specific payment stream.

"Per Event Penalty Pool" means, for any month and payment stream during the Term, the monthly At Risk Amount applied to the penalty pool up to the At Risk Cap Amount.

"At Risk Cap Amount" means a maximum of two hundred percent (200%) of the monthly At Risk Amount for the specific payment stream.

"Minimum Performance Level" means the desired level of performance for each given Service Level.

"Service Level Failure(s)" means whenever Contractor's actual level of performance for a particular Service Level is worse than the Minimum Performance Level for that Service Level applicable to a specific Payment Stream.

"Payment Stream" means a separate Per Event Penalty pool is associated with each of the FAS, Core MMIS Technology, PES, and DRS payments made to the successful Offeror.

II. METHODOLOGY.

A. MONITORING; REPORTS; ROOT CAUSE ANALYSIS.

1. Monitoring. Contractor shall implement measurement and monitoring tools and produce the metrics and reports necessary to measure its performance against the Service Levels. Upon request in connection with an audit, and at no additional

charge to the Commonwealth, Contractor shall provide DMAS or its designees with information and access to tools and procedures used to produce such metrics.

2. Reports. Contractor shall report to DMAS Contractor's performance of the Services against each Service Level on a monthly basis beginning on the schedule identified in Section III, below, along with detailed supporting information. As part of the standard monthly Service Level reports (SLA), Contractor shall notify DMAS of any (i) Service Level Failures, and (ii) Performance Credits to which the Commonwealth becomes entitled. Contractor shall provide such reports and supporting information to DMAS no later than seven (7) business days after the end of the preceding month. The raw data and detailed supporting information shall be Commonwealth Confidential Information.

3. Root Cause Analysis. Contractor shall promptly investigate and correct Service Level Failures in accordance with a defined Root Cause Analysis process.

B. SUCCESSIVE SERVICE LEVEL FAILURES.

If a Service Level Failure with respect to a given Service Level recurs in consecutive Reporting Intervals, the amount of the applicable Performance Credit payable to DMAS shall be multiplied by the following factors for subsequent Reporting Intervals: (i) Service Level Failure in two consecutive Reporting Intervals, then 1.5 times the amount of the Performance Credit as originally calculated; and (ii) Service Level Failure in three or more consecutive Reporting Intervals, then 2 times the amount of the Performance Credit as originally calculated. The Performance Credit for any given Service Level shall only be increased as described above, and such increase shall be payable for all successive consecutive Service Level Failures with respect to such Service Level. The Performance Credit increases described in this Section will only apply if the given Service Level has a non-zero Allocation Percentage assigned to it in all of the applicable Reporting Periods.

C. PERFORMANCE MEASUREMENT CREDITS.

1. Calculating Performance Credits. For each Service Level Failure, Contractor shall pay or credit to DMAS a Performance Credit that will be computed by multiplying (a) the Allocation Percentage for such Service Level by (b) the At Risk Amount. For example, assume for purposes of illustration only, that Contractor fails to meet a Service Level Failure with an Allocation Percentage of 25% and that the monthly Fees equal \$10,000,000 and the At Risk Amount is 10%. The Performance Credit due to DMAS for such Service Level Failure would be: $25\% * (10\% * \$10,000,000) = \$250,000$.

2. Earn Back Credits. If, during the three (3) months immediately following a Service Level Failure, Contractor's actual performance in each such month is equal to or greater than the Minimum Performance Level for such Service Level, then Contractor shall have earned a credit ("Earn Back Credit") equal to the amount of the Performance Credit payable by Contractor for the original Service Level Failure with respect to that Service Level. In no event shall Contractor's Earn Back Credit(s) exceed the amount of the Performance Credit(s).

3. Several Service Level Failures. Subject to **Section II(C)(4)**, if more than one Service Level Failure with respect to Service Levels has occurred in a single month, the sum of the corresponding Performance Credits shall be credited or paid to DMAS.

4. Cap. In no event shall the aggregate amount of Performance Credits credited or paid to DMAS with respect to all Service Level Failures occurring in a single month exceed the At Risk Amount or the Per Event Penalty Pool, as applicable.

5. Payment/Credit of Performance Credits. At the beginning of each Contract Quarter, Contractor shall itemize the total amount of Performance Credits it is obligated to pay or credit to DMAS with respect to Service Level Failures occurring during the preceding Contract Quarter and any Earn Back Credits earned by Contractor during such preceding Contract Quarter on the invoice that contains charges for the last month of the applicable Contract Quarter. For any Contract Quarter in which Performance Credits exceed Earn Back Credits, Contractor shall, at DMAS' option, either: (i) place the total amount of such Performance Credits related to a given Contract Quarter into a pool of credits for future use by the Commonwealth against invoices for future Services; or (ii) credit the total amount of such Performance Credits related to a given month on the invoice that contains charges for such month. Upon termination or expiration of the Term, Contractor shall pay to DMAS the amount of any Performance Credits, minus any applicable Earn Back Credits, not so paid or credited to DMAS' account or any unused portion of such Performance Credits.

6. Non-Exclusive Remedy. Contractor acknowledges and agrees that the Performance Credits shall not be deemed or construed to be liquidated damages or a sole and exclusive remedy or in lieu of any other rights and remedies the Commonwealth has under the Agreement, at law or in equity.

D. CHANGES TO PERFORMANCE MEASUREMENTS.

1. Changes to Allocation Percentages. The Commonwealth may make changes to the Allocation Percentage for any Service Level by sending written notice to Contractor at least thirty (30) days prior to the date that such new percentages are to be effective. With respect to the addition of Service Levels, the Commonwealth shall modify the Allocation Percentages for the Service Levels such that the sum of the Allocation Percentages for all Service Levels does not exceed the At Risk Pool. Until the Commonwealth makes such modifications to the Allocation Percentages, the Allocation Percentage(s) for any added Service Level(s) shall be equal to the greater of (i) the unallocated portion of the At Risk Pool, evenly distributed amongst all of the added Service Levels or (ii) zero.

2. Additions. No more than once quarterly, the Commonwealth may add Service Levels by sending written notice to Contractor at least thirty (30) days prior to the date that such added Service Levels are to be effective. The Minimum Performance Levels for such additional Service Levels shall be determined (i) where there exists six (6) months of measurements (excluding the transition period) that are applicable to such Service Level, by taking the average of the measurements achieved during such period, or (ii) otherwise by mutual agreement of the Parties using industry standard measures. The Parties agree

that unless mutually agreed, the Minimum Performance Level for such additional Service Level shall not be 100%.

3. Deletions. The Commonwealth may delete Service Levels by sending written notice to Contractor at least thirty (30) days prior to the date that such deletions are to be effective.

E. CONTINUOUS IMPROVEMENT.

The Parties agree that Contractor shall continuously improve the Service Levels during the Term of the Agreement in accordance with this Section. Beginning 12 months after the implementation of Service Level Credits on July 1, 2010 and on each annual anniversary thereof, the Parties shall adjust the Minimum Performance Level for each Service Level so that the Improvement Adjustment for each Service Level is calculated as (the average of the six (6) highest or best monthly actual results that are above or better than the Minimum Performance Level during the preceding twelve (12) months minus the current Minimum Performance Level) multiplied by 20%. The Improvement Adjustment is then added to the current Minimum Performance Level in order to establish the new Minimum Performance Level.

III. SERVICE LEVELS.

The Service Levels and the numerical Minimum Performance Levels associated with each Service Level are set forth in Appendices E.II, F.II, and G.II.